

# **Exhibit F**

UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF NEW YORK  
Civil Action 11 CIV 9199

U.S. BANK NATIONAL :  
ASSOCIATION, as :  
Indenture Trustee :

Plaintiff, :

vs. :

DEPOSITION OF:  
BARCLAYS BANK PLC, :  
THE BANK OF NEW YORK : ANDREW SOLOMON  
MELLON, MBIA :  
INSURANCE CORPORATION :  
and ANGELO GORDON & :  
COMPANY, L.P., :  
Defendants. :

-----  
\*\*\*\*CONFIDENTIAL\*\*\*\*

TRANSCRIPT of the stenographic notes  
of the proceedings in the above-entitled  
matter, as taken by and before  
CAROLYN CHEVANCE, a Shorthand Reporter, and  
Notary Public of the State of New Jersey, held  
at the office of SKADDEN ARPS, 4 Times Square,  
New York, New York, on July 20, 2012,  
commencing at 10:05 a.m.

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1  
2 Q Have you ever testified in a  
3 court proceeding?

4 A No.

5 Q In an arbitration?

6 A No.

7 Q Have you ever provided an  
8 Affidavit in a court proceeding?

9 A Not that I'm aware of, no.

10 Q Could you tell me how you  
11 prepared for your deposition today?

12 A Sure. I spent a couple days  
13 with counsel, about a day-and-a-half, read  
14 through some documents, refreshed myself with  
15 some of the timeline of what has taken place  
16 in this case.

17 Q Did you meet with anyone else  
18 aside from your counsel?

19 A No.

20 Q Have you discussed your -- have  
21 you discussed this deposition with anyone  
22 other than your counsel?

23 A In addition to outside counsel,  
24 internal counsel, as well as other members of  
25 my team at Angelo Gordon, people I work with.

1  
2 Q You mentioned that you reviewed  
3 some documents during the course of your  
4 preparation?

5 A Correct.

6 Q Just back up a minute, how many  
7 days did you spend preparing for your  
8 deposition?

9 A About a day-and-a-half.

10 Q Did any of the documents that  
11 you reviewed refresh your recollection as to  
12 any matter that you hadn't recalled before  
13 looking at it?

14 A Yeah, I think that's fair.  
15 Yeah, refreshed, it's been a timeline that  
16 goes back over a year. So seeing some of the  
17 documents and refreshing helped.

18 Q Did any document in particular  
19 you recall refreshing your recollection in  
20 that matter?

21 A No.

22 Q Did you review any of the  
23 depositions that have been given in this  
24 matter?

25 A I have.

1  
2 Q Which ones did you review?

3 A I reviewed the deposition of  
4 Caroline Platt. Jaime Aldama. Vick -- I'm  
5 not sure how to pronounce his last name and  
6 the representative from PF2.

7 Q Did you review the deposition of  
8 Mr. Jacobs?

9 A Yes, I did.

10 Q Do you keep a notebook or a  
11 calendar of any sort?

12 A I do keep a notebook throughout  
13 the day.

14 Q When you -- strike that.

15 Did you engage in a process of  
16 collecting documents relating to the Cedar  
17 Woods II CDO transaction for production in  
18 this litigation?

19 A All documents that we've  
20 collected have been transferred to counsel.

21 Q Did that include your notebook?

22 A It did.

23 (Whereupon, Solomon 1, Notice of  
24 Deposition, was marked by the reporter  
25 for identification.)

1  
2 Q The court reporter just handed  
3 you what has been marked as Exhibit 1; which  
4 is a Notice of Deposition to Interpleader  
5 Defendant and Cross-Claim Defendant Angelo  
6 Gordon and Co., pursuant to Federal Rule of  
7 Civil Procedure 30(b)6.

8 Is it your understanding that  
9 you are here testifying in addition to in  
10 your personal capacity, in your capacity as a  
11 representative of Angelo Gordon?

12 A That is correct.

13 Q And Angelo Gordon is your  
14 employer?

15 A Correct.

16 Q What is Angelo Gordon, what kind  
17 of business is it in?

18 A We are an alternative money  
19 manager.

20 Q What does that mean?

21 A We manage money for a number of  
22 different public and private institutions.

23 Q What is your position at Angelo  
24 Gordon?

25 A In charge of our commercial real

1 estate debt business.

2 Q What does the commercial real  
3 estate debt business comprise?

4 A We are investors primarily in  
5 CMBS securities and we manage portfolios, a  
6 number of different portfolios for a number  
7 of different accounts.

8 Q So you manage them on a --  
9 strike that.

10 Do you manage these portfolios  
11 on an advisory basis or are they funds  
12 actually operated by Angelo Gordon?

13 A Both. We have what I would  
14 consider the commingled funds where there are  
15 a number of different investors, as well as a  
16 number of separate accounts where there is a  
17 single investor.

18 Q Does Angelo Gordon also manage  
19 collateralized debt obligations?

20 A We do, my group and the firm  
21 manages the two Cedar Woods commercial real  
22 estate CDOs.

23 Q Does Angelo Gordon manage any  
24 other collateralized debt obligations?  
25

1 A No other CDOs. We are the  
2 manager for a number of collateralized loan  
3 obligations, CLOs.

4 Q How would you describe the  
5 difference between a CDO and a CLO?

6 A At Angelo Gordon the CLOs are  
7 primarily corporate exposures as opposed to  
8 commercial real estate exposures, and the  
9 underlying within the vehicle are loans to  
10 companies in the CLOs.

11 The underlying in our commercial  
12 real estate CDOs are primarily securities  
13 that are backed by commercial real estate.

14 Q So the two Cedar Woods  
15 transactions are the only CDOs that are  
16 managed by Angelo Gordon?

17 A Correct.

18 Q And follows that they are the  
19 only commercial real estate CDOs that are  
20 managed by Angelo Gordon?

21 A That's correct.

22 Q What are your roles and  
23 responsibilities at Angelo Gordon?

24 A As the portfolio manager I'm  
25

1 involved with the selection of the individual  
2 securities that go into any portfolio.

3 I'm responsible for interfacing  
4 with existing potential new clients,  
5 investors, and overseeing the group that's  
6 primarily doing the credit analysis of the  
7 securities that we potentially purchase.

8 I'm also involved with the  
9 trading aspect of the business, buying and  
10 selling of individual bonds.

11 Q How did it come about that  
12 Angelo Gordon became the manager of the two  
13 Cedar Woods CDOs?

14 A In early 2006 we began selecting  
15 individual securities for inclusion in the  
16 first CRE CDO, with the idea that once we had  
17 acquired a pool, a sufficient size, that that  
18 would be packaged into a CDO, and what we  
19 call liabilities or strips of the obligations  
20 would be sold to third-party investors.

21 Q Did the genesis for these CDOs  
22 come from Angelo Gordon or did it come from  
23 the structurer or some other party?  
24

25 A It came from Angelo Gordon

1 primarily. The firm itself has a very active  
2 successful business on the private equity  
3 side of the commercial real estate business,  
4 owning and operating properties, and this was  
5 a way to develop a business on the debt side  
6 of the commercial real estate space.

7 Q So focusing for a minute on the  
8 Cedar Woods II transaction, that transaction  
9 closed in February 2007?

10 A Correct.

11 Q And Angelo Gordon is the  
12 collateral manager for that transaction?

13 A That's correct.

14 Q Could you describe generally  
15 what the collateral manager does for a CDO?

16 A Sure. In general the collateral  
17 manager is typically responsible for  
18 selecting the individual credits that go into  
19 the deal.

20 The collateral manager may or  
21 may not be involved with the marketing of  
22 that transaction, going out to those  
23 potential investors in the CDO and explaining  
24 why they picked the assets that they picked.  
25

1  
2 Once the deal is priced and  
3 closed, the collateral manager's  
4 responsibilities include ongoing monitoring  
5 of the portfolio, potentially buying and  
6 selling individual securities, and also  
7 working with the Trustee, the collateral  
8 administrator.

9 Q Working with the Trustee and the  
10 collateral administrator in what sense?

11 A Reviewing remittance reports,  
12 making sure the information related to  
13 individual trades is conveyed to the Trustee,  
14 and answering any questions that investors  
15 may have.

16 Q How about interaction with the  
17 rating agencies, is that part of the  
18 collateral manager's responsibilities?

19 A That is.

20 Q What does -- what type of  
21 interaction would Angelo Gordon have with the  
22 rating agencies?

23 A You know, it depends. A lot of  
24 it is answering questions that the agencies  
25 may have. Certain transactions within the

1  
2 CDO would require rating agency confirmation,  
3 so working with the agencies to go get that  
4 required confirmation.

5 Q What is a rating agency  
6 confirmation?

7 A It's effectively the rating  
8 agencies issuing a statement that says doing  
9 this particular transaction, maybe it is a  
10 buy, maybe it is a sell, they would confirm  
11 that that in and of itself is not the sort of  
12 thing that would result in a downgrade of any  
13 of the CDO bonds, CDO liabilities.

14 Q With respect to the Cedar Woods  
15 II transaction, were rating agency  
16 confirmations obtained with respect to any  
17 transactions or other matters?

18 A I know they were obtained with  
19 respect to some of the swaps and hedges.

20 Q What was the nature of the  
21 rating agency confirmations with respect to  
22 the swaps and hedges?

23 A With the swaps and hedges, to  
24 the extent that you were putting in a new  
25 interest rate swap or taking out an existing

1  
2 swap that was in the transaction, that  
3 required rating agency confirmation.

4 Q Do you know whether there were  
5 any rating agency confirmations relating to  
6 matters other than swaps and hedges?

7 A I don't recall any.

8 Q Are you aware that one of the  
9 issues in the case is whether certain assets  
10 were characterized as defaulted securities,  
11 correct?

12 A Correct.

13 Q Do you know whether rating  
14 agency confirmations were obtained with  
15 respect to any of the securities that are now  
16 claimed to have been defaulted securities?

17 A Not to my recollection.

18 Q Did you undertake to determine  
19 whether rating agency confirmations had been  
20 obtained with respect to any of those  
21 securities in your preparation for this  
22 deposition?

23 A No.

24 Q If there had been rating agency  
25 confirmations is that something that would

1  
2 have been brought to your attention with  
3 respect to those securities?

4 A Probably.

5 Q Could you tell me kind of  
6 organizationally with respect to Angelo  
7 Gordon's work as collateral manager for the  
8 Cedar Woods II CDO, who else at Angelo Gordon  
9 was involved in the -- in providing those  
10 services?

11 A Sure. As of today, in addition  
12 to myself, there are four other members of my  
13 team that work on the commercial real estate  
14 debt strategies, exclusively.

15 My most recent hire joined us  
16 several months ago, so he has had no  
17 involvement in the Cedar Woods II  
18 transactions.

19 On a monthly basis there are  
20 some specific information related to the  
21 collateral that we provide to the Trustee,  
22 and the two members of my group do that on a  
23 regular basis, on that monthly basis.

24 Q Who was that?

25 A Michael Lewin and Jenna Hines.

1  
2 The other member of the team is Rick Finger  
3 and he assists with all of the functions that  
4 I mentioned earlier.

5 Q This monthly information  
6 regarding the collateral that is provided by  
7 the Trustee, with the assistance of Mr. Lewin  
8 and Ms. Hines, what does that information  
9 consist of?

10 A To clarify, it's information  
11 that we provide to the Trustee.

12 Q You're right that is what I  
13 meant, to the Trustee.

14 A It's a breakdown they call the  
15 stratifications of property type geography,  
16 that is for the loans within individual CMBS  
17 positions, and then also the expected  
18 weighted average lives of the individual  
19 securities.

20 Q Is that all the information they  
21 provide to the Trustee?

22 A On a regular basis, monthly  
23 basis, correct.

24 Q Which entity is the Trustee, is  
25 that U.S. Bank?

1  
2 A Yes.

3 Q And prior to U.S. Bank it was --

4 A It was Lasalle at inception of  
5 the deal, which was then acquired by Bank of  
6 America and then the Trustee services was  
7 sold or spun out from Bank of America to U.S.  
8 Bank.

9 Q Did the team, the Trustee team,  
10 that you were dealing with change over time?

11 A It did change over time. I  
12 don't believe that those changes were  
13 connected with the change of the overall  
14 institution, but it was just natural  
15 attrition of people kind of coming through.

16 Q Am I correct that the group that  
17 was originally responsible for the Cedar  
18 Woods deal at Lasalle transferred to Bank of  
19 America and then transferred to U.S. Bank?

20 A There were personnel changes  
21 throughout, so the individual Trustee that  
22 would be my primary contact certainly changed  
23 over the years.

24 Q Who was -- who is it currently  
25 your primary contact?

1  
2 A Adam Jacobs.

3 Q Who was it before Mr. Jacobs?

4 A I believe it was Matthew Scott.

5 Q When did Mr. Jacobs take over  
6 for Mr. Scott?

7 A I'm not sure of the exact date.

8 Q Before Mr. Scott was there  
9 somebody else?

10 A Yes. There was Lev Toker. Also  
11 the same person Lev Tensel, she was married  
12 at some point, and a number of other  
13 individuals that would at times be involved  
14 as a secondary contact.

15 So for instance, today in  
16 addition to working with Adam, Tom Idikkula  
17 is involved in providing Trustee services  
18 from that institution as well.

19 Q Do you recall anyone else that  
20 you dealt with on a regular basis?

21 A Cheryl Ross. Early on there was  
22 an individual named Cyril, last name starts  
23 with a T.

24 Q Is there also a collateral  
25 administrator for the Cedar Woods CDO?

1  
2 A I use the terms interchangeably,  
3 Trustee and collateral administrator.

4 Q The entity that serves as the  
5 Trustee serves as the collateral manager?  
6 MR. PEES: Administrator.

7 A Administrator.

8 Q Do you distinguish at all  
9 between their -- between U.S. Bank's role and  
10 responsibility as Trustee versus collateral  
11 administrator?

12 A I do not.

13 Q Turning to Exhibit 1, if you  
14 have it in front of you. Turn to page two,  
15 there is a list of topics for examination, do  
16 you see that? Page two of Schedule A.

17 A Yes.

18 Q Have you reviewed this before,  
19 this schedule of topics for examination?

20 A I have.

21 Q Are you here today prepared to  
22 speak to the 13 topics listed here?

23 A I am.

24 Q Topic three is your procedures,  
25 research, analysis, calculations or



1 with the rating agencies?

2 A That's correct.

3 Q In that regard did Angelo Gordon  
4 think it was important to keep track of the  
5 ratings on the securities that it was  
6 purchasing and holding for the Cedar Woods  
7 transaction?

8 A Yes.

9 MR. PEES: When we reach a good  
10 juncture it might be a good time to take  
11 a break.

12 THE VIDEOGRAPHER: The time is  
13 11:04 a.m. Going off the record.

14 (A short break is taken.)

15 THE VIDEOGRAPHER: The time is  
16 11:21 a.m. Back on record.

17 Q Mr. Solomon, aside from the  
18 service providers, does Angelo Gordon utilize  
19 any computer systems to monitor the Cedar  
20 Woods II transaction?

21 A No, there are no systems. We  
22 have Excel spreadsheets.

23 Q Do you keep a database of the  
24 collateral that is in the CDO?  
25

1 A We do.

2 Q How is that maintained?

3 A There is internal system on  
4 that, I believe it's called Tango. But from  
5 the management side what we are doing is the  
6 collateral manager -- the primary system that  
7 we are using, again, it's Excel based.

8 Q What does Tango do or Tango's  
9 capabilities?

10 A It is more internal accounting  
11 and compliance.

12 Q I think my question was, do you  
13 utilize it to track the collateral in the  
14 CDO?

15 A Certainly not the performance of  
16 the collateral, and when Cedar Woods II was  
17 originally constructed none of the securities  
18 were included in Angel Gordon's internal  
19 Tango system.

20 It was only over the last couple  
21 years where there has been a migration in  
22 those securities, or at least included in  
23 that system.

24 Q What did Angelo Gordon utilize  
25

1 prior to Tango?

2 MR. PEES: Objection to the  
3 form.

4 A It was, again, the Excel sheets  
5 that I mentioned, as well as coordination  
6 with the Trustee.

7 Q Does Angelo Gordon maintain a  
8 trade log of some sort?

9 A Yes.

10 Q How is that maintained?

11 A It's in Excel, and whenever a  
12 security is purchased or sold it's included  
13 as a line item in that trade log.

14 Q Is the trade log a running tab  
15 of the trades that are executed for Cedar  
16 Woods?

17 A Yes.

18 Q What is Geneva?

19 A Another internal software system  
20 at Angelo Gordon that's very similar to what  
21 I described with Tango. Again, it's  
22 primarily accounting driven. So I have less  
23 familiarity with the inter workings of our  
24 internal Geneva system.  
25

1 Q When you say it's related to the  
2 internal accounting, is there another group  
3 at Angelo Gordon that works on accounting  
4 issues associated with the Cedar Woods  
5 transaction?

6 A There is.

7 Q What functions do they perform?

8 A The accounting rules have  
9 changed over the life of this deal, and so at  
10 different points in time Angelo Gordon's  
11 auditors have asked for different information  
12 related to the CDOs.

13 So I'm not exactly certain of  
14 what the accounting group is doing on a  
15 day-to-day basis as it relates specifically  
16 to the CDOs.

17 I do know that I will talk with  
18 our auditors as part of their annual audit to  
19 give them an update on the transactions.

20 Q Does somebody in your accounting  
21 group keep track of the -- strike that.

22 Is there someone other than you  
23 and the individuals that assist you that  
24 tracks the trades that are executed, in a  
25

1 trade blotter, something like that?

2 A When a trade is done we take a  
3 ticket down to the group that we call trade  
4 support, and so there is tracking that is  
5 done internally in the Geneva and Tango  
6 systems.

7 Q So each trade that is executed  
8 for Cedar Woods is entered in the accounting  
9 system as well as your Excel spreadsheets?

10 A Correct.

11 Q Do you receive reports from that  
12 accounting function, trade support function,  
13 sorry?

14 A What I get on a daily basis is a  
15 listing across all of our different funds of  
16 individual holdings for individual  
17 securities.

18 Q And what do you do with that  
19 report?

20 A We use it to get a sense of what  
21 our exposures are in individual funds and  
22 across all our funds, to specific securities.

23 Q What information -- what fields  
24 appear on this daily report?

1 A It's just a notional amount on  
2 owned face amount.

3 (Whereupon, Solomon 2, Letter,  
4 Bates stamped HECW 0142673 through 79,  
5 was marked by the reporter for  
6 identification.)

7 Q The court reporter just handed  
8 you what has been marked as Exhibit 2, which  
9 is a letter dated January 31, 2007, on Trepp  
10 letterhead, addressed to Angelo Gordon and  
11 Co., and Bank of America securities.

12 If you look at -- it bears  
13 control numbers HECW 204 -- 0142673 through  
14 79.

15 If you look at page four of this  
16 document, it bears your signature; is that  
17 correct?

18 A It does.

19 MR. DONOHUE: There is another  
20 e-mail attached to the end of the  
21 version that we have, is that  
22 unintentional?

23 MR. CARTY: Looks like the same  
24 for the witness'.  
25

1 MR. MALLOY: Tear off the  
2 attachment.

3 MR. LEVINE: We are going to  
4 change the original?

5 MR. MALLOY: Yes.

6 Q Is this an engagement letter  
7 with Trepp relating to the Cedar Woods II  
8 transaction?

9 A It is.

10 Q What services -- are you  
11 familiar with this document?

12 A I am.

13 Q What services was Trepp  
14 providing specifically relating to the Cedar  
15 Woods II transaction?

16 A They -- this is similar to the  
17 services that I described earlier, in terms  
18 of how you can use Trepp to get information  
19 on individual commercial real estate CDOs.

20 In this case what they were  
21 engaged to do was to create a projected cash  
22 flow model at issuance of the CDO, as well as  
23 to update that model and update the  
24 information with the type of collateral  
25

1 that's in the CDO at a particular point in  
2 time.

3 Q Was that model created?

4 A To the best of my knowledge it  
5 was.

6 Q And is that something that  
7 Angelo Gordon had access to?

8 A We do -- did and do.

9 Q Who else has access to the Trepp  
10 model?

11 A I believe anybody that  
12 subscribes to Trepp, and has notified Trepp  
13 that they are a holder of the securities.

14 Q Was there somebody that worked  
15 with Trepp to -- in formulating their model?

16 A I believe that was primarily  
17 done by the bankers responsible for this  
18 transaction. That was Bank of America  
19 Securities.

20 Q The process of preparing the  
21 note valuation reports, mechanically how does  
22 that work, does someone send you -- prepare a  
23 draft and send it to Angelo Gordon?

24 A That's correct.  
25



1  
2 Q When does that occur on a  
3 monthly basis?

4 A The deals typically -- it  
5 depends where weekends fall, but in a typical  
6 month the deals payout on the 25th of every  
7 month. The cut off date is usually the 19th.

8 Some time around the 19th or  
9 20th of the month we will provide the Trustee  
10 with that property type and geographic and  
11 average life information.

12 Around a day or two after that  
13 cut off date of the 19th, the Trustee will  
14 provide me with a draft of the note valuation  
15 report.

16 Q Okay.

17 A Sometimes there are pieces of  
18 information that aren't fully updated in the  
19 draft, they will try to get the draft out a  
20 day or two after the cut off date.

21 I will review that draft note  
22 valuation report and provide the Trustee with  
23 any comments or questions that we might have.

24 Those issues hopefully get  
25 resolved in the next day or two and by the

1  
2 25th of the month there should be a note  
3 valuation report that is posted that we've  
4 signed off on and agreed to.

5 Q You mentioned a cut off date,  
6 what is the cut off date?

7 A It's basically the end of each  
8 monthly period. So for things like principal  
9 payments and interest collections there needs  
10 to be a date each month that is basically  
11 okay, this is the end of this particular  
12 month and the following day is going to be  
13 the start of a new month.

14 Q In terms of the note report,  
15 what is the significance of the cut off date?

16 A The note valuation report, as  
17 well as the payments that are made, relate to  
18 that period from the first day of that  
19 particular period to the cut off date.

20 Q Which is typically the 19th of  
21 the month?

22 A Correct. So in a typical month  
23 it's from the 20th of a month to the 19th of  
24 the following month, and the note valuation  
25 report and payments are made on the 25th.

1  
2 Q So is it fair to say the funds  
3 -- the principal and interest that is  
4 collected and the various calculations that  
5 are run in the note valuation reports, those  
6 are calculated as of the cut off date based  
7 on the funds that were received on or prior  
8 to the cut off date?

9 A That's correct.

10 (Whereupon, Jacobs 32, Document,  
11 previously marked was shown to the  
12 witness.)

13 Q Handing you what has been  
14 previously marked as Exhibit 32 to the Jacobs  
15 deposition.

16 Do you have exhibit -- Jacobs  
17 Exhibit 32 in front of you?

18 A I do.

19 Q Is this a note valuation report  
20 for the Cedar Woods II transaction?

21 A It is.

22 Q Just looking at the top right  
23 corner there is an as-of-date that says 21  
24 December '10, is that -- would that have been  
25 the cut off date?

1  
2 A That's correct.

3 Q For this note valuation report.

4 So in this instance it was the  
5 21st, why would that have been the case?

6 A It could have been a couple of  
7 things. Where a holiday fell in the month or  
8 where the weekends fell.

9 It would not be unusual to see a  
10 date that was a day or two after a 19th cut  
11 off date.

12 Q The formula for determining what  
13 the cut off date is set in the indenture; is  
14 that correct?

15 A I believe so.

16 Q The next line says current  
17 payment, 27 December '10, is that the date  
18 when the payments are made?

19 A Correct.

20 Q This document, this note  
21 valuation report from December 2010, would  
22 this have been a document that you reviewed  
23 in accordance with the procedure that you  
24 described earlier?

25 A Yes.

1  
2 Q Looking at the first page, over  
3 on the left side there is reference to a  
4 number of data files, do you know what those  
5 are?

6 A I don't. I assume that they are  
7 files used by the Trustee to help create this  
8 report.

9 Q If you turn to page three of the  
10 report, on the lower left corner there is a  
11 table of asset positions, and it lists four  
12 types of assets, CDO, CMBS, REIT debt and  
13 cash, do you see that?

14 A I do.

15 Q What do these figures depict?

16 A They show the notional amount,  
17 the face amount of securities owned by this  
18 CDO that fall into these three different  
19 buckets, and then as well as how much cash is  
20 in the transaction at a particular point in  
21 time.

22 Q And the current count number, 18  
23 CDO, 198 CMBS, 5 REIT debt, those are -- that  
24 is the number of individual bonds that are  
25 held by the CDO?

1 A Correct.

2 Q With respect to each of those  
3 asset positions?

4 A Right.

5 Q And is that information that was  
6 within Angelo Gordon's knowledge at the time  
7 that you would have reviewed this note  
8 report, the current count of assets of each  
9 class?

10 A That is information that we  
11 would have internally, yes.

12 Q Would this have been something  
13 you reviewed in connection with reading the  
14 -- reading and reviewing the report?

15 A Yes.

16 MR. LEVINE: Draft.

17 Q Draft?

18 A Draft of the report.

19 Q Where it says CDO, you mentioned  
20 earlier that the only types of CDO that Cedar  
21 Woods would purchase are commercial real  
22 estate CDOs?

23 A Correct.

24 Q So that 18 count of CDOs would  
25

1 have been exclusively real estate CDOs?

2 A Correct.

3 Q If you turn to page five, there  
4 is a table that goes on for a couple pages  
5 until page eight that is titled Distribution  
6 Detail, do you know what this table depicts?

7 A I do.

8 Q Can you describe it for the  
9 record?

10 A It shows -- it is also called  
11 the waterfall. It shows how available  
12 interest proceeds, as well as available  
13 redemption monies or principal proceeds, are  
14 directed to individual classes.

15 Q On -- looking at the left panel,  
16 the far left there is a series of numbers  
17 under the column "priority", do you know what  
18 those numbers and letters, do you know what  
19 those are?

20 A I believe they relate to  
21 specific parts of the indenture.

22 Q The parts of the indenture that  
23 lay out the priority of payments with respect  
24 to, in the case of the left panel, interest  
25

1 payments?

2 A Correct.

3 Q And in the case of the right  
4 panel the principal distributions?

5 A Correct.

6 Q So in this particular month  
7 there was a total of -- looking at the top of  
8 the column, about 2.7 million, \$2,737,560.14  
9 in available interest proceeds?

10 A That's correct.

11 Q And that would have been  
12 calculated as of the cut off date that you  
13 described?

14 A Yes.

15 Q And that in a sense is the top  
16 of the waterfall that then is distributed in  
17 accordance with the priorities listed here?

18 A Yes.

19 Q And the third -- there is a  
20 number of entries, again I'm focused on the  
21 left panel for the time being, there is a  
22 number of entries with a dash or a hyphen,  
23 those are entries where no distribution was  
24 made; is that fair?  
25

1  
2 A These stratification tables are  
3 not something that is a primary focus of ours  
4 when we are reviewing the monthly reports.

5 Q But you did read them?

6 A In summary, yeah.

7 Q Looking at page 76, there is a  
8 table captioned Stratifications Asset, do you  
9 see that?

10 A Yes.

11 Q There is an entry on the table  
12 that is captioned distributions of specific  
13 types, there is an entry for specified type  
14 CDO of CDOs, and it lists six assets with a  
15 principal balance of \$30,834,494, do you see  
16 that?

17 A I do.

18 Q What is a CDO of CDOs?

19 A I believe it is also called a  
20 CDO squared, but it's a pool where the  
21 underlying is all CDOs.

22 Q So a CDO that contains interests  
23 in other CDOs?

24 A I believe so.

25 Q Did you buy any CDO squared's

1 for the Cedar Woods II CDO?

2 A No.

3 Q Sitting here today you would  
4 agree that that entry is inaccurate, that  
5 states that there are six assets in the pool  
6 that are -- of the specified type CDO of CDO?

7 A That's correct.

8 Q Was one of your Angelo Gordon's  
9 responsibilities as a collateral manager  
10 determining whether a particular security was  
11 a defaulted security?

12 A In conjunction with working with  
13 the Trustee, yeah, we have some  
14 responsibility for that.

15 Q What was the division of labor  
16 between -- strike that.

17 With reference to the Cedar  
18 Woods II transaction, what was the -- strike  
19 that too.

20 With reference to the Cedar  
21 Woods II CDO what is a defaulted security?

22 A There are a number of different  
23 criteria that could create a defaulted  
24 security.  
25

1 The most straightforward is a  
2 downgrade by either the rating agencies below  
3 the CCC level. So if a bond were to be rated  
4 D or CC or single C, that is a defaulted  
5 security.  
6

7 In addition, there are a number  
8 of other variances from how that security was  
9 originally expected to perform that could  
10 result in the security being classified as a  
11 defaulted security.

12 Q And that depends on the  
13 definition in the indenture; is that correct?

14 A Correct.

15 Q And with respect to a CMBS  
16 security, one of the ways in which a CMBS  
17 security can become a defaulted security is  
18 by missing interest payments?

19 A Correct.

20 Q Going back again, you said that  
21 the evaluation of whether a security is a  
22 defaulted security is something that was done  
23 in conjunction with the Trustee?

24 A Correct.

25 Q When we say the Trustee, are we

1 talking about also the collateral  
2 administrator, because you don't draw a  
3 distinction between the two?

4 A Yes.

5 Q What was the division of labor  
6 between the collateral manager on the one  
7 hand and the Trustee/collateral administrator  
8 on the other, with respect to determining  
9 whether a security was a defaulted security?

10 A The way that it works is shortly  
11 after a cut off date the Trustee, the  
12 collateral administrator, will provide us  
13 with a list of defaulted securities.

14 Q How -- where -- how do they  
15 generate that list?

16 A I'm not sure.

17 MS. BEHRENS: Object to the  
18 form.

19 Q What do you do with the list?

20 A One of our responsibilities as  
21 the collateral manager is to assign a market  
22 value to defaulted securities, so we will  
23 take that list, we will look at where those  
24 securities are marked by third-party pricing  
25

1  
2 services, and then report back to the Trustee  
3 an estimate of market value for those bonds.

4 Q Is there anything else to the  
5 process of identifying defaulted securities  
6 that is done as between you and the  
7 Trustee/collateral administrator?

8 A So I will look at that list of  
9 securities and independently confirm that we  
10 still believe all of those bonds that are  
11 listed there should be classified as  
12 defaulted, and then as we are doing our  
13 review of a draft of the note valuation  
14 report we are also looking for any securities  
15 that might have been missed that should have  
16 been included as defaulted.

17 Q So you are in a sense looking  
18 for instances where the Trustee/collateral  
19 administrator missed identifying a defaulted  
20 security when you are reviewing the note  
21 valuation report?

22 MS. BEHRENS: Objection to form.

23 A As we are going through the  
24 draft valuation report if we find securities  
25 in there that we think should be classified

1  
2 as defaulted we will communicate that to the  
3 Trustee.

4 Q But other than in the context of  
5 reviewing the note valuation reports, did you  
6 monitor the portfolio of securities on an  
7 ongoing basis to determine whether any of the  
8 securities became defaulted securities?

9 A No.

10 Q Would it become relevant at all  
11 in the operation of the CDO that some  
12 security became a defaulted security inter  
13 period, between payment dates?

14 A Can you repeat the question?

15 Q I can give you a new question  
16 that is clearer if that will help.

17 MR. PEES: Why don't we go that  
18 route.

19 Q In connection with the operation  
20 of the CDO, your management of the CDO, are  
21 there situations where it would become  
22 relevant that a particular security became a  
23 defaulted security in between payment dates.

24 MS. BEHRENS: Objection.

25 A It depends. If it's strictly

1  
2 ratings based and a bond that had been rated  
3 BB was downgraded to CC, but there was no  
4 actual change in the credit characteristics  
5 of that bond, I don't believe that it would  
6 have an impact on where that bond would  
7 necessarily trade.

8 It might, to the extent that the  
9 buyer was ratings constrained, it would have  
10 mattered a lot more in 2008, 2007. Not so  
11 much in the last couple of years.

12 If it was a defaulted security  
13 because of a failure to pay interest, that  
14 also depends. If the market believed that  
15 that was temporary it might not impact price  
16 at all.

17 If the market believed that that  
18 shortfall was going to be ongoing and non  
19 recoverable, then it should have an impact on  
20 price.

21 Q Would it affect the collateral  
22 concentration tests on an inter period basis?

23 A I believe that as certain  
24 securities are classified as defaulted, they  
25 are moved from the denominator of a number of

1  
2 these tests.

3 Q In your work as managing the  
4 Cedar Woods CDO do you need to rely on the  
5 current as opposed to prior period, next  
6 period, figures for the collateral  
7 concentration tests?

8 MR. PEES: Objection to the  
9 form.

10 Q In other words, do you need to  
11 know what the collateral concentration test  
12 is on a particular date as opposed to the end  
13 of the prior period?

14 A Yes.

15 Q In what context would that  
16 become relevant?

17 A It is relevant to the extent  
18 that there is purchases being made into the  
19 vehicle or discretionary sales.

20 In general the indenture says  
21 that purchases need to maintain or improve  
22 any failing tests.

23 Q So on a particular date in  
24 between periods were you relying on the  
25 Trustee or the collateral administrator to

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1  
2 determine whether or not a security had  
3 become a defaulted security in between -- to  
4 ensure that those tests were calculated  
5 properly.

6 MR. GEREMIA: Object to the  
7 form.

8 A Yes.

9 Q For those securities that became  
10 defaulted securities or were candidates for  
11 becoming defaulted securities, take a CMBS  
12 security that was potentially defaulted  
13 because of missed interest payments, that  
14 would be one of the criteria?

15 MR. PEES: Objection to the  
16 form.

17 MS. BEHRENS: Objection.

18 Q How did you go about -- say it  
19 came up in the context of reviewing a note  
20 valuation report, how would you go about  
21 determining for yourself, if you did that,  
22 whether or not that security was a defaulted  
23 security?

24 MR. PEES: Objection to the  
25 form.

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1 MS. BEHRENS: Objection.

2 A For the listing of securities  
3 that we were provided as part of our review  
4 on a month end basis, the easiest check and  
5 you could go to Bloomberg to do this, is to  
6 see what the rating is.

7 Majority of the defaulted  
8 securities had a rating below CCC by either  
9 Moody's or S&P, so that was a pretty easy  
10 check.

11 For any other securities that  
12 were included there because of missed  
13 interest payments, you would need to go back  
14 to the payment history of that security and  
15 make a determination of whether or not it had  
16 missed the requisite number of interest  
17 payments.

18 Q Who was doing that, who was  
19 looking at the payment histories?

20 A I was.

21 Q On a monthly basis you were  
22 looking at the payment histories for all of  
23 the underlying securities to determine  
24 whether they had missed the requisite number  
25

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1 of payments to become defaulted securities?

2 A For the securities that were  
3 listed as defaulted.

4 Q What about the securities that  
5 weren't listed as defaulted?

6 A For the securities that weren't  
7 listed as defaulted, we were going through on  
8 a monthly basis and checking the amount of  
9 cash flow that was coming in on the  
10 individual line items.

11 Q So you -- you had no system in  
12 place to check the payment histories of each  
13 security on a monthly basis to determine  
14 whether they had missed payments that were  
15 scheduled?

16 MR. PEES: Objection to the  
17 form.

18 A Other than comparing to what had  
19 happened the prior month, no.

20 Q If you wanted to look up the  
21 payment history of a particular security, you  
22 had access to the Trepp system to pull up the  
23 actual remittance report that was issued by  
24 that security, correct?  
25

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1 A Yeah, the nuance there is what  
2 Trepp will have is the most recent remittance  
3 report. To go back and get historical  
4 remittance reports it's easier to do it off  
5 of Morningstar or Real Point.

6 Q Okay, but you had access to that  
7 information?

8 A Correct.

9 THE VIDEOGRAPHER: The time is  
10 1:04 p.m. Going off the record.

11 (A luncheon recess is taken.)  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25



1  
2 A Yes, I believe it was the  
3 Standard & Poor's CDO monitor test.

4 Q Do you know whether that test  
5 was misstated for the Cedar Woods II  
6 transaction as well?

7 A I'm not certain. I don't think  
8 that it was.

9 Q Did you undertake to determine  
10 whether it was?

11 A I believe that we did. Again,  
12 I'm not certain whether we did or not.

13 THE VIDEOGRAPHER: The time is  
14 3:00 p.m. We are going off the record.  
15 (A short break is taken.)

16 THE VIDEOGRAPHER: This begins  
17 tape number three. The time is  
18 3:18 p.m. Back on the record.

19 Q Mr. Solomon, before the break  
20 you were discussing -- you testified that  
21 there was a circumstance earlier this year  
22 when you had requested -- when Angelo Gordon  
23 requested the Trustee to make corrections to  
24 the prior note reports for the Cedar Woods I  
25 transaction?

1  
2 A Correct.

3 Q You also testified that you had  
4 identified at least a few other errors with  
5 respect to the Cedar Woods II note reports,  
6 including the failure to timely designate the  
7 Crest 2003-1A bond as a deferred interest PIK  
8 bond and the failure to designate the CD  
9 2006-C3 bond as a defaulted security.

10 My question is, what is the  
11 distinction as to when you would request the  
12 Trustee to correct prior note reports, why  
13 was it done for Cedar Woods I but not for  
14 Cedar Woods II?

15 MS. BEHRENS: Objection to form.

16 MR. VENKATAKRISHNAN: Objection.

17 Q Do you understand my question?

18 A I do.

19 The decision to instruct the  
20 Trustee to restate Cedar Woods I was made in  
21 conjunction with discussions with internal  
22 counsel.

23 With --

24 MR. PEES: Don't elaborate  
25 further on that conversation. To the

1  
2 extent you were going to say something  
3 else, go ahead.

4 A With Cedar Woods II that deal  
5 was put into escrow. I believe it was the  
6 early part of the fourth quarter of -- the  
7 early part of the fourth quarter of last  
8 year, and that it has been subject to this  
9 Interpleader action since the end of last  
10 year, and that is really the reason that we  
11 haven't instructed the Trustee to restate any  
12 prior remittance reports.

13 Q Because of the litigation?

14 A I believe so.

15 (Whereupon, Jacobs 16, Document,  
16 previously marked was shown to the  
17 witness.)

18 Q Handing you what was marked  
19 previously marked as Jacobs Exhibit 16.

20 Jacobs 16 is a document bearing  
21 Bates numbers BARC 109 through -- strike  
22 that.

23 Jacobs 16 is a notice dated  
24 October 12, 2011, from U.S. Bank as Trustee  
25 addressed to the holders of CRE -- Cedar

1  
2 Woods CRE CDO II; is that correct?

3 A Yes.

4 Q What I wanted to draw your  
5 attention to was the last two pages of the  
6 document which appears to be a letter dated  
7 on Angelo Gordon letterhead, addressed to the  
8 Trustee, U.S. Bank, Cedar Woods CRE CDO II,  
9 the last two pages?

10 A I see it.

11 Q Is it fair to say that this  
12 letter is a further explanation of the  
13 reasons why Angelo Gordon at the time at  
14 least disagreed with the assertions that  
15 Barclays was making about the  
16 mischaracterization of certain securities as  
17 performing, when they should have been  
18 characterized as defaulted?

19 A Can you give me a minute to read  
20 it?

21 Q Sure.

22 A Okay, I read it.

23 MR. PEES: I want too make sure  
24 we are literally on the same page, did  
25 you read all four of these?



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1  
2 A No, thank you.

3 MR. PEES: Because the exhibit  
4 is double sided there was some ambiguity  
5 of what the last two pages were.

6 A Okay.

7 Q My question, this October 11th  
8 letter that is attached to this Trustee  
9 notice, is this a further explanation as of  
10 October 11th of Angelo Gordon's position as  
11 to whether or not the securities were  
12 defaulted securities or -- strike. Strike  
13 all that.

14 This October 11th letter that is  
15 attached to the Trustee notice, would it be  
16 accurate to characterize this as Angelo  
17 Gordon's response as of this date to the  
18 contentions that Barclays was raising  
19 regarding the mischaracterization of certain  
20 securities in the Cedar Woods II deal?

21 A Yes, I think that is a fair  
22 characterization.

23 Q Were you involved in preparing  
24 the arguments that were set forth in this  
25 letter?

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1  
2 A This letter was signed by  
3 in-house counsel. I certainly assisted with  
4 gathering information and helping to prepare  
5 this.

6 Q And you are here today prepared  
7 to talk on behalf of Angelo Gordon with  
8 respect to the matters raised in this letter,  
9 correct?

10 A Yes.

11 MR. PEES: With the exception of  
12 attorney/client communications of  
13 course.

14 Q Skipping down to the itemized  
15 discussions about the particular securities,  
16 first is Crest 2003-1A security we were  
17 discussing before the break, and the letter  
18 states the second -- looking at the second  
19 sentence, "the second consecutive payment  
20 deferral took place on 2/28/2011 and,  
21 consequently, the first time the security  
22 could have been classified as a deferred  
23 interest PIK bond was in the 3/25/11  
24 payment", do you see that?

25 A I see is that.

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1  
2 Q Based on what you testified to  
3 earlier it would be accurate to say the  
4 security should have been classified as a  
5 deferred interest PIK bond in 3/25/11 payment  
6 report, correct?

7 A I think it should have, yes.

8 Q Item three, on the next page  
9 there is a discussion of the LBUBS 2007-C1  
10 deal, Classes C, D and H, do you see that?

11 A I do.

12 Q First sentence says "All three  
13 classes of securities from this transaction  
14 incurred their third consecutive month of  
15 interest shortfalls on 5/17/10, and should  
16 have been classified as defaulted securities  
17 in the May 2010 payment report", do you see  
18 that?

19 A I do.

20 Q Do you know whether in fact  
21 those three classes of securities were  
22 classified as defaulted securities in the  
23 May 2010 payment report?

24 A I'm not sure.

25 Q Did you ever go back to

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1  
2 determine whether that had been done?

3 A I don't remember.

4 (Whereupon, Solomon 9, Payment  
5 Report, was marked by the reporter for  
6 identification.)

7 Q The court reporter just handed  
8 you what has been marked as Exhibit 9, does  
9 this appear to you to be the May 2010 payment  
10 report for the Cedar Woods II deal?

11 A Yes.

12 Q Page 65 is the list of non  
13 performing assets, do you see that?

14 A I do.

15 Q Do you see any classes of the  
16 LBUBS 2007-C1?

17 A No, I do not.

18 Q You would agree that they should  
19 have been included on the list of non  
20 performing assets in the May 2010 report?

21 A Yes.

22 Q When did it come to your  
23 attention that the LBUBS 2007-C1 securities  
24 should have been classified as defaulted  
25 securities in the May 2010 payment report?

1  
2 A Certainly as part of the  
3 drafting of this letter. I don't recall if  
4 it had come to my attention prior to that.

5 Q If it had come to your attention  
6 prior to that what would you have done?

7 MS. BEHRENS: Objection.

8 A I'm not sure. I think it  
9 depends on the context, and it probably would  
10 have been a matter of having an internal  
11 discussion with counsel just to see how they  
12 would recommend to proceed.

13 Q At the very least would it have  
14 impacted the fee that Angelo Gordon received  
15 on the May 2010 payment date, correct?

16 MS. BEHRENS: Objection.

17 A Had these been classified as  
18 defaulted, yes, I believe it would have.

19 Q So we now identified at least  
20 three months, May 2010, March 2011 and  
21 April 2011 where Angelo Gordon was paid the  
22 excessive fees?

23 MS. BEHRENS: Objection.

24 A The term "excessive" I don't  
25 think --

1  
2 Q By "excessive" I mean in excess  
3 of what you were entitled to?

4 A I would agree with that.

5 Q As of today has Angelo Gordon  
6 remitted any of its -- the prior fees it  
7 received on the Cedar Woods II transaction to  
8 the Trustee?

9 A We have not.

10 Q And why is that?

11 A Again, it's a function of the  
12 fact that this is a deal that is in  
13 litigation.

14 Q And then come down to six, the  
15 CD -- 2006-CD2 Class E you state -- the  
16 letter states "We do not dispute that the  
17 securities should have been classified as a  
18 defaulted security in the 6/27/11 payment  
19 report"?

20 A Correct.

21 Q And in fact it was not  
22 classified as a defaulted security in that  
23 report, correct?

24 A I believe that's true.

25 (Whereupon, Solomon 10, E-mail,

1  
2 was marked by the reporter for  
3 identification.)

4 Q The court reporter handed you  
5 what has been marked as Exhibit 10, which is  
6 an e-mail string, the top e-mail is an e-mail  
7 from you to Rick Finger on August 30, 2011,  
8 subject matter "How are you doing?"

9 I wanted to draw your attention  
10 to the part of the string where you are  
11 writing to Mr. Finger on August 30, 2011, at  
12 7:35 a.m., do you see that?

13 A I do.

14 Q Were you on vacation at the time  
15 you wrote this?

16 A Yes.

17 Q What is the reporting structure  
18 as between you and Mr. Finger, do you work  
19 for him or vice versa?

20 A He works for me.

21 Q In the second paragraph of that  
22 part of the e-mail string you state "One  
23 thing to let you know about is that Barclays  
24 has told Lasalle to declare an EOD in C Wood  
25 II", is that the Cedar Woods II transaction?

1  
2 A Yes.

3 Q "LaSalle thinks the controlling  
4 class has no standing to do this, and that  
5 the reason given is questionable at best".

6 Had you spoken to somebody at  
7 LaSalle about the situation regarding Cedar  
8 Woods II?

9 A When I say Lasalle or I wrote  
10 Lasalle here it is the Trustee, which at the  
11 time was U.S. Bank.

12 Again, the when the deal started  
13 Lasalle actually acted as the Trustee, but in  
14 this case I was referring to U.S. Bank or the  
15 Trustee.

16 Q And had someone at U.S. Bank  
17 told you that the reasons given by Barclays  
18 for declaring an event of default were quote,  
19 questionable at best?

20 A I believe so.

21 Q Who was that?

22 A I believe it was in discussions  
23 with Adam Jacobs.

24 Q What else do you recall  
25 discussing with Mr. Jacobs?

1  
2 A I think this pretty well  
3 summarizes it. I don't recall other aspects  
4 of that conversation.

5 Q So based on your understanding,  
6 the Trustee wasn't taking this contention  
7 that was raised by Barclays seriously?

8 MS. BEHRENS: Objection.

9 MR. VENKATAKRISHNAN: Objection  
10 to form.

11 A I don't think that is an  
12 accurate description. I think they were  
13 taking it seriously and what the Trustee was  
14 doing, encouraging me to speak directly to  
15 Barclays.

16 (Whereupon, Solomon 11, E-mail,  
17 was marked by the reporter for  
18 identification.)

19 Q The court reporter handed you  
20 what has been marked as Exhibit 11, which is  
21 an e-mail from you to Mr. Jacobs and  
22 Mr. Scott at U.S. Bank, dated September 21,  
23 2011, subject "Response", was this an e-mail  
24 that you drafted and sent to Mr. Jacobs and  
25 Mr. Scott at U.S. Bank?

1  
2 A It certainly appears like I sent  
3 it. I'm not sure whether I drafted it by  
4 myself or in conjunction with Alan Krinsman.

5 Q At this point in time did you  
6 understand that U.S. Bank was proposing to  
7 commence escrowing funds out of the Cedar  
8 Woods II transaction until the contentions  
9 with Barclays were resolved?

10 A Let me --

11 Q Go ahead.

12 A Okay.

13 Q At the time of this e-mail in  
14 September 21, 2011, did you understand that  
15 the Trustee was proposing to commence  
16 escrowing funds flowing from the Cedar Woods  
17 II transaction?

18 A Yes.

19 Q In this e-mail were you -- was  
20 Angelo Gordon voicing its objection to that  
21 procedure?

22 A We were.

23 Q What was the reason why Angelo  
24 Gordon was objecting to the escrowing of  
25 funds?

1  
2 A There are a couple of reasons  
3 outlined here. One, we believe that doing  
4 this would be the sort of thing that would  
5 result or could result in a downgrade of the  
6 notes.

7 Q Why was that?

8 A A failure to make scheduled  
9 interest payments, or just going ahead and  
10 escrowing funds I think is the sort of thing  
11 that I expected would get the attention of  
12 the rating agencies, both Moody's and S&P,  
13 and I thought it would be likely that just  
14 that action alone could result in a downgrade  
15 of some of the bonds.

16 The Cedar Woods CDO liabilities,  
17 not the underlying securities.

18 Q In the fourth paragraph, second  
19 sentence, "Failure to make timely payments by  
20 one or both rating agencies which in turn  
21 will result in decline and value of the  
22 notes", is that what you were referring to?

23 A Yes.

24 Q The failure to pay principal to  
25 holders may result in a downgrade of the

1  
2 notes is that fair, based on your  
3 understanding of the way the rating agencies  
4 operate?

5 A I think that's possible. I  
6 think just the act of escrowing payments is a  
7 high profile decision that would get the  
8 rating agencies attention, and likely result  
9 in a downgrade.

10 Q Were there other reasons why  
11 Angelo Gordon objected to the escrowing  
12 process that was being proposed by the  
13 Trustee?

14 A Yeah, the second reason that we  
15 outline here is a prohibition on us as the  
16 collateral manager from being allowed to  
17 execute trades, purchases or sales.

18 I'm not sure that is one in the  
19 same as the escrowing, but around this time  
20 we were told essentially the deal is being  
21 frozen and you as the collateral manager  
22 can't buy or sell any securities out of this  
23 transaction, period, until this is resolved.

24 So we took some objection with  
25 that and we thought that could potentially

1  
2 page 170, am I right that 11.1 deals with the  
3 waterfall for interest collections, correct?

4 MS. BEHRENS: Objection.

5 A Correct.

6 Q And the provisions of 11.1 roman  
7 numeral one, for the next couple of pages  
8 through 23, that is the waterfall for  
9 interest collections?

10 The waterfall that is for the  
11 applied interest collections?

12 A Priority payments.

13 Q If you look at Section 11.1  
14 romanette 16 on page 172, it states "If  
15 either of the Class D/E coverage tests is not  
16 satisfied as of the preceding calculation  
17 date to pay principal as provided under the  
18 terms of such notes", skipping a little, "of  
19 the most senior class of notes then  
20 outstanding until such Class D/E coverage  
21 test is satisfied, as of such calculation  
22 date", et cetera.

23 Do you understand that that  
24 provision, romanette 16, requires interest  
25 collections that flow down to this point in

1  
2 notes, and instead was used to pay items on  
3 the waterfall that are listed below romanette  
4 -- 11.1a, 11.1a16, for example, the  
5 subordinated collateral managers fee, could  
6 this section have been complied with, this  
7 section of the waterfall 11.1a16?

8 MR. PEES: Objection.

9 MS. BEHRENS: Objection.

10 A I don't know.

11 Q Let me make sure that the  
12 objections to my lengthy but otherwise clear  
13 question, I will break it into some smaller  
14 pieces.

15 Let's take December 2010, and  
16 let's posit hypothetically the Class D/E  
17 coverage test was failing but the payment  
18 report indicated that it was passing, and as  
19 a result payments were made, for example,  
20 under 11.1a22 on page 173, to pay the  
21 subordinate collateral management fee, and  
22 that payments were not made under 11.1a16 to  
23 pay down principal to the most senior class  
24 of notes outstanding; would you agree in that  
25 circumstance the waterfall was violated?

1  
2 the waterfall to be directed to pay down  
3 principal on the senior most outstanding  
4 class of notes, in this case the class A-1  
5 notes until the test is passing?

6 MR. PEES: Objection to the  
7 form.

8 A I do see that.

9 Q Could that section be complied  
10 with if those payments were not made, if the  
11 payments of interest collections that made it  
12 down this far in the waterfall were not used  
13 to pay down principal in the most senior  
14 class of notes outstanding?

15 MS. BEHRENS: Objection.

16 MR. GEREMIA: Objection.

17 MR. PEES: Objection.

18 Q Assuming the coverage test was  
19 failing?

20 A Can you repeat that question?

21 Q Assume the Class D/E coverage  
22 test was failing on a particular month, say  
23 December 2010, if in that month the interest  
24 collections were applied in a way that did  
25 not pay down principal to the class A-1

1  
2 MR. PEES: Objection.

3 MS. BEHRENS: Objection.

4 MR. GEREMIA: Objection.

5 A Again, I'm not sure.

6 Q Well, was there compliance in  
7 that scenario, was there compliance with  
8 11.1a16?

9 MR. PEES: Objection.

10 MS. BEHRENS: Objection.

11 A I'm not sure.

12 Q What is the source of your --  
13 what is it that you are not sure about?

14 MR. PEES: Objection.

15 Q Let me withdraw that.

16 If the waterfall provision of  
17 Section 11.1a requires a payment to be made  
18 to the class A-1 noteholders to pay down  
19 principal and that payment was not made,  
20 isn't that a violation of Section 11.1a?

21 MR. PEES: Objection.

22 MS. BEHRENS: Objection.

23 A You know, again, I'm not sure.  
24 This letter dated September 22nd was signed  
25 by in-house counsel, drafted by counsel, and

1  
2 it is our position in order for there to have  
3 been an event of default under 5.1c the  
4 payments would have needed to have been made  
5 in a manner that was inconsistent with what  
6 was in the payment report.

7 Q And sitting here today you can't  
8 explain why that would be the case?

9 MR. PEES: Caution the witness  
10 not to reveal any attorney/client  
11 communications.

12 A This is a determination that  
13 Angelo Gordon came to in consultation with  
14 counsel.

15 Q So you are here on behalf of  
16 Angelo Gordon to testify about Angelo  
17 Gordon's evaluation concerning any event of  
18 default alleged under the indenture; and  
19 sitting here today as Angelo Gordon's  
20 representative is it your position that you  
21 can't explain why there is not an event of  
22 default if a payment that is required to be  
23 made under Section 11.1a16 is not made?

24 MR. PEES: Objection, 30(b)6 is  
25 not an invitation to reveal a privilege.

1  
2 A I cannot recall the nuances of  
3 this determination in the conversations we  
4 had with internal counsel and external  
5 counsel.

6 Q Is that Angelo Gordon's position  
7 today?

8 MR. PEES: That is Angelo  
9 Gordon's position.

10 Q Can you personally explain --  
11 can you personally provide any explanation --  
12 setting aside your communications with  
13 counsel as to how it could be that a payment  
14 is not made that is required by Section  
15 11.1a16 that is not made is not a violation  
16 of 11.1?

17 MR. PEES: Objection.

18 MS. BEHRENS: Objection.

19 A No.

20 Q Going back to -- do you have  
21 Jacobs Exhibit 16 in front of you, the  
22 September 22nd letter?

23 A Yes.

24 Q The last paragraph on the first  
25 page of this letter states "If any errors

1  
2 were made in the determination of the  
3 coverage tests, the indenture expressly  
4 provides that such errors may be corrected in  
5 a reasonable period of time before an event  
6 of default would occur", do you know where  
7 does that appear in the indenture?

8 A I believe there was a number of  
9 different places within the events of default  
10 that talk about remedies as well as timing.

11 Q Well, looking back at 5.1c on  
12 page 102, do you see any detailed provisions  
13 -- strike that.

14 Looking at Section 11 -- strike  
15 that.

16 Looking at Section 5.1c do you  
17 see any provision that expressly provides  
18 that violations of the waterfall may be  
19 corrected within a reasonable period of time  
20 before an event of default would occur?

21 A There is language in here that  
22 talks about five business days.

23 Q Do you see anything else?

24 A In 5.1c, no.

25 Q Are you aware of any other

1  
2 provisions that would address the time period  
3 for correcting a failure to comply with the  
4 waterfall?

5 A Again, through other parts of  
6 the definition of defaulted security, and  
7 discussions of remedies, there are a number  
8 of other places in there that have some  
9 different day counts, different periods.

10 Q Are you thinking of something in  
11 particular?

12 A I'm looking through all the  
13 various definitions of events of default, and  
14 so there is talk about 30 days, 90  
15 consecutive days.

16 Q How long do you think it has  
17 been since you -- since it came to your  
18 attention that the CD 2006-CD3 bonds had been  
19 improperly characterized as performing in the  
20 March 2011 payment report?

21 A Well, certainly since the letter  
22 that we sent dated October 11th of 2011.

23 Q How long do you think it has  
24 been since you became aware that the LBUBS  
25 2007-C1 classes C, D and H should have been



1 but were not classified as defaulted  
2 securities in the May 2010 payment report?

3 A Same answer. Since October 11,  
4 2011.

5 Q And possibly earlier?

6 A Correct.

7 Q How long do you think it has  
8 been since you were aware that the Crest  
9 2003-A1 security should have been but was not  
10 characterized as a deferred interest PIK  
11 bond in the March 2011 payment report?

12 A Same answer, certainly since  
13 October 11, 2011.

14 THE VIDEOGRAPHER: The time is  
15 4:16 p.m. Going off the record.

16 (A short break is taken.)

17 THE VIDEOGRAPHER: The time is  
18 4:30 p.m. Back on record.

19 Q The court reporter handed you  
20 what has been marked as Exhibit 12, which is  
21 a document bearing control number AGCWII  
22 0143308 through 143384.

23 (Whereupon, Solomon 12,  
24 Document, Bates stamped AGCWII 0143308  
25

1 through 143384, was marked by the  
2 reporter for identification.)

3 Q Which appears to be a note  
4 valuation report for the Cedar Woods II  
5 transaction, dated as of 21 December 2010; is  
6 that fair?

7 MS. BEHRENS: Were the  
8 handwritten notes on the document as  
9 produced?

10 MR. MALLOY: We will get to  
11 that.

12 A Yes.

13 Q The answer is yes.  
14 Do you know -- can you tell from  
15 looking at this whether this is a draft or  
16 final version?

17 A I cannot tell.

18 Q Do you recognize the handwriting  
19 on the front?

20 A Yes, that looks like my  
21 handwriting.

22 Q Who -- does that say Jackie?

23 A Yes.

24 Q Do you recognize that name and  
25

1 phone number, do you know who that is?

2 A No, I don't.

3 Q The handwriting on the top, can  
4 you read any of that?

5 A I can't. I cannot.

6 Q In connection with collecting  
7 documents in connection with this litigation,  
8 did you review hardcopy documents that you  
9 had accumulated related to the Cedar Woods  
10 deal and turn them over to counsel?

11 A I collected any hardcopy  
12 documents I had and handed them over to  
13 counsel.

14 Q If you turn to page 64, there is  
15 two entries that are circled, this is the  
16 page that is dealing with rating detail; am I  
17 right that this is the section of the report  
18 where the current ratings of the collateral  
19 held by the CDO are reported?

20 A Correct.

21 Q The two entries that are circled  
22 are -- the first is WBCMT 2005-C18F, and  
23 second is WBCMT 2005-C18G, do you see those?

24 A I do.  
25

1 Q And the entries that are circled  
2 are the -- under the column status and date,  
3 does it look like that is something you  
4 circled yourself?

5 A It does.

6 Q Do you have any recollection as  
7 to why you circled those two entries?

8 A I'm not sure.

9 Q The entries that are circled  
10 it's -- one is under the column status both  
11 to say -- well, for the Class F bond the  
12 current Moody's rating is BA3; is that right?

13 A It's reported as BA3, correct.

14 Q And Class G is reported as B2?

15 A Yes.

16 Q And the status which is one of  
17 the items circled is CW minus, is that on  
18 credit watch by Moody's; is that right?

19 A Yeah, credit watch would have  
20 negative implications.

21 Q What does that mean?

22 A Moody's is reviewing the  
23 transaction and it is likely that their  
24 review will result in a downgrade of the  
25



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1  
2 Class F and G bonds. The bond is on review  
3 for possible downgrade.

4 Q It had been since October 28,  
5 2010?

6 A Yeah, according to this report.

7 Q If a bond is on a ratings watch  
8 with negative implications, is that something  
9 that you would keep an eye out for as a  
10 collateral manager?

11 A Not necessarily.

12 Q When would you keep an eye out  
13 for the downgrade that is anticipated by that  
14 kind of notation?

15 A Very early on in the life of  
16 this deal before a number of the collateral  
17 quality tests were breached, the implications  
18 of a downgrade of a bond were more  
19 significant.

20 We looked at an earlier  
21 remittance report that had showed, I believe,  
22 three pages of rating activity or down grades  
23 that had taken place in a one month period,  
24 so in 2009, 2010 and 2011 literally thousands  
25 of securities were being downgraded.

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1  
2 So to have two securities that  
3 were on credit watch negative, in and of  
4 itself wouldn't necessarily cause alarm.

5 Q Is it something that you or  
6 somebody else at Angelo Gordon would have  
7 monitored for further down grades?

8 A It's possible, but not  
9 necessarily the sort of thing that we would  
10 be tracking day by day.

11 Q And the ratings detail starts on  
12 page 56 of this report, by my count I see two  
13 other bonds that are on credit watch with  
14 negative implications, aside from the two  
15 bonds, does that sound right?

16 A I see the two that you are  
17 referring to. I'm just checking to see if  
18 there are any more.

19 Not that I see. So I would  
20 agree with that.

21 Q So at this stage in the security  
22 there weren't torrents of bonds being put on  
23 ratings watch, is that fair to say?

24 MS. BEHRENS: Objection.

25 A Go to 53, 54 and 55, these are a

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1  
2 listing of all the securities that had rating  
3 changes during this period.

4 Q During the prior period --

5 A Just this month.

6 Q In December?

7 A Correct.

8 Q Did it come to your attention  
9 that the two WBCMT bonds, 2005-C18F and G had  
10 also been downgraded in December 2010 prior  
11 to the issuance of this report?

12 MR. PEES: Objection.

13 A No, I believe that I found out  
14 that those bonds had been downgraded as part  
15 of reading the Affidavit related to this  
16 dispute.

17 Q So sitting here today you have  
18 no recollection of why you circled those two  
19 bonds on this report?

20 A I don't know when I made that  
21 circle, and it very easily could have been  
22 after reading the Affidavit related to this,  
23 where I went back to the copy of the  
24 remittance report that I had and went ahead  
25 and circled that.

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1  
2 Q Do you recall -- did you go away  
3 for the holidays in December 2010, were you  
4 out of the office?

5 A I'm not sure.

6 Q Is it your practice to go out of  
7 the office at the end of December?

8 A No, it really depends.  
9 Sometimes it is, sometimes it's other members  
10 of my team that are taking that week of  
11 vacation.

12 Q Is it possible that you had  
13 learned of the downgrade of the two WBCMT  
14 2005-C18 bonds in December or maybe January?

15 A I don't believe so.

16 Q Well, let's say hypothetically  
17 you had caught that error after the note  
18 report was published, what would you have  
19 done?

20 A It would have been a  
21 conversation that I would have had with  
22 counsel.

23 I'm sure there would have been  
24 talk of context and what the implications  
25 would be for bonds that were reported with

Page 193

1 ratings that were inconsistent with what the  
2 actual rating is, but I'm not sure what we  
3 would have done if we had determined that  
4 there were errors.

5 Q Would you have -- if you turn to  
6 page 14, as of 21 December 2010 the Class D  
7 coverage test ratio was reported at  
8 103.04 percent and passing is 1023.5 percent,  
9 correct?  
10

11 A Correct.

12 Q If you had learned of -- that  
13 two securities -- well, strike that.

14 Do you know what the principal  
15 amount of the WBCMT-2005-C18 bonds were?

16 A Go to page 42. Middle of the  
17 page, 9.5 million for the F's and 1 million  
18 for the G's.

19 Q That is 11-and-a-half together?

20 A Ten-and-a-half.

21 Q Correct, ten-and-a-half.

22 Is that a significant size  
23 investment for the Cedar Woods deal?

24 A A \$9.5 million investment is one  
25 of the larger line items that are in this

Page 194

1 deal.

2 Q So if you had learned say in  
3 January that those two bonds had been  
4 downgraded would you have evaluated the  
5 affect on the principal coverage tests --  
6 would you have gone back to evaluate whether  
7 that would have impacted the principal  
8 coverage tests in the prior month?  
9

10 MS. BEHRENS: Objection.

11 MR. PEES: Objection.

12 Q Assuming hypothetically you had  
13 caught this error in January?

14 A I think that is a reasonable  
15 assumption. I mean, it is a hypothetical but  
16 yeah, when we are told of errors or potential  
17 errors, it is reasonable to check what the  
18 magnitude of that error might be or what the  
19 implications might be.

20 Q Are there other circumstances  
21 where you would look into the status of the  
22 coverage tests on an inter period basis?

23 A Sure. Like I mentioned earlier,  
24 if there were changes that we didn't expect  
25 or no changes when we would have expected it,

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1 we would request back up from the Trustee in  
2 determining how the calculation was made.

3 Q And the -- how would the  
4 downgrade of the two WBCMT bonds, let's say  
5 they had -- you agree that they were in fact  
6 downgraded in December 2010?  
7

8 A Yeah, I believe that is correct.

9 Q And you verified that?

10 A Yes.

11 Q And they were not correctly  
12 reported in the December 2010 payment report?

13 A I believe that's correct also.

14 Q How would they have impacted the  
15 coverage tests?

16 A Let's take them one at a time.  
17 The Class F's were rated BA 3BB.

18 And if you go to page 14, the  
19 principal coverage test that would fall into  
20 the BB bucket, that is the less 10 percent  
21 reduction.

22 There is some nuances to it in  
23 terms of in excess of 40 percent, but we are  
24 over that hurdle.

25 There is also talk about after

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1 you have done some of the earlier haircuts,  
2 but in general roughly speaking they were --  
3 a 10 percent haircut was applied to that  
4 principal balance.

5 So in the base of a \$9.5 million  
6 bond it was being treated for the purpose of  
7 this test as being worth 8.55, I think.

8 I don't recall what that  
9 security was downgraded to.

10 Q Well, if you assume that it was  
11 downgraded to CA3 what would the impact have  
12 been?  
13

14 MS. BEHRENS: Objection.

15 A Assuming that is what the  
16 downgrade was, it would fall into the  
17 40 percent haircut bucket for a bond that is  
18 rated CCC.

19 So your difference in the  
20 haircut between what was applied and what  
21 would have been applied is 40 minus 10,  
22 30 percent.

23 Q So it would have been reduced by  
24 a further 30 percent in the coverage amount?

25 A Correct.

Page 197

1  
2 Q Assume the Class G was  
3 downgraded to CA, that would have made it a  
4 defaulted security, correct?

5 A Correct.

6 MS. BEHRENS: Objection.

7 Q So it would have impacted the --  
8 on page 14 are you referring to the section  
9 that is reference to the ratings, is that the  
10 haircut section?

11 A Yes.

12 (Whereupon, Solomon 13, E-mail,  
13 Bates stamped AGCWII 0111319, was marked  
14 by the reporter for identification.)

15 Q The court reporter just handed  
16 you what has been marked as Exhibit 13, which  
17 is a document bearing control number -- an  
18 e-mail bearing control number AGCWII 0111319,  
19 and it is from Moody's Alerts to you dated  
20 December 10, 2010, do you see that?

21 A I do.

22 Q This an e-mail that you  
23 received?

24 A I believe so.

25 Q And this was an alert from

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1  
2 and it goes on to say portfolio name Cedar  
3 Woods CDO II, do you see that?

4 A I do.

5 Q Did you set up an alert with  
6 Moody's to provide you with e-mails like this  
7 alerting you of down grades of securities  
8 that are held by the Cedar Woods CDO II?

9 A We certainly did at the issuance  
10 of this transaction, at the start of this  
11 CDO.

12 Q You had a subscription to  
13 Moody's, correct?

14 A We did.

15 Q So if you had clicked through on  
16 this e-mail would you have been able to look  
17 at the details of the down grades?

18 A I believe so, yes.

19 (Whereupon, Solomon 14, Exhibit  
20 RR, was marked by the reporter for  
21 identification.)

22 Q The court reporter handed you  
23 what has been marked as Exhibit 14, which is  
24 Exhibit RR to the declaration of Jake  
25 Scrivens, which attaches Moody's investor

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1  
2 Moody's advising you that nine classes of the  
3 WBCMT 2005-C18 structure had been downgraded?

4 A Correct.

5 Q Is this something you would have  
6 read at the time when it came in?

7 A Possibly. We looked at the  
8 number of rating actions that took place in  
9 this month, so it is likely this is one of up  
10 to a hundred e-mails that were coming in from  
11 Moody's over this monthly period.

12 Q Do you share these alerts with  
13 others on your staff?

14 A I'm not sure others on the staff  
15 get these e-mails directly. I believe one of  
16 the people working with me does, but I'm not  
17 certain.

18 MR. MALLOY: To the extent that  
19 anyone else received an alert of this  
20 nature we ask for its production.

21 MR. PEES: Take it under  
22 advisement.

23 Q The body of the alert states  
24 "you received this e-mail because you  
25 currently have an alert set up as follows",

Page 200

1  
2 services rating action dated 10 December 2010  
3 related to the WBCMT 2005-C18 bonds; is that  
4 an accurate characterization of this  
5 document?

6 A Yes.

7 Q And you would agree that this  
8 report reflects the downgrade of the Class F  
9 bond to CAA3?

10 A Yes.

11 Q And the down grade of the Class  
12 G bond to CA.

13 A Yes.

14 Q Do you recall going back to  
15 determine the impact on the coverage tests of  
16 applying those two downgrades if they had  
17 been applied correctly to December 2010 how  
18 that would have impacted the coverage ratios?

19 A Yes.

20 Q What did you determine?

21 A That the magnitude of those down  
22 grades I believe would have caused the Class  
23 D/E coverage ratio to have breached that  
24 limit or it would have caused that test to  
25 have been failed.

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1  
2 Q Did you advise the Trustee of  
3 that determination?

4 A No.

5 Q Did you take any steps in  
6 response to that determination?

7 A No.

8 Q When did you make that  
9 determination?

10 A After -- shortly after reviewing  
11 this Scrivens' Affidavit.

12 Q That would have been in  
13 March 2012?

14 A That sounds like roughly the  
15 right time, yeah.

16 Q So approximately four months  
17 ago?

18 A Correct.

19 Q What would the impact have been  
20 if the Class D/E coverage test was failing in  
21 December of 2010?

22 MS. BEHRENS: Objection.

23 Q On the payments that were made  
24 in that month?

25 MS. BEHRENS: Objection.

Page 202

1  
2 A Look at Solomon 12. December  
3 payment report. On page seven, sorry, page  
4 six, the payment of interest to the Class C  
5 of 9,500 still would have been made, but then  
6 the next line down, XVI either the Class D/E  
7 coverage tests are not satisfied any excess  
8 cash flow would have been directed to pay  
9 down the A-1s; so that is roughly \$31,000  
10 that was paid to the Class F.

11 \$221,000 that was paid to Angelo  
12 Gordon as a subordinate collateral management  
13 fee, and \$333,000 that was paid to the  
14 equity.

15 Q Did Angelo Gordon own the equity  
16 at the time?

17 A No.

18 Q So those three amounts, \$31,224,  
19 \$220,808 and \$330,638, those three lines  
20 cumulatively should have been applied on line  
21 16 to principal of the Class A notes?

22 A Correct.

23 Q Would there have been an impact  
24 on the principal side?

25 A Yes, amounts that were in the

Page 203

1  
2 principal collection account would have been  
3 paid out to the A-1 class as well, as opposed  
4 to being available for purchase of additional  
5 securities after the cut off.

6 Q So that is the line 14a,  
7 \$1,257,775?

8 A Correct.

9 Q All or part of that would have  
10 had to been applied to pay principal on the  
11 A-1 notes?

12 A I believe all of it would have,  
13 yes.

14 Q The funds that were paid to  
15 Angelo Gordon, the \$2,278,808, has Angelo  
16 Gordon returned that to the Trustee?

17 A We have not.

18 Q Why not?

19 A Again, the deal is in escrow and  
20 subject to litigation.

21 Q How does that explain -- you  
22 would agree sitting here today that that  
23 \$202,000 was not a payment that Angelo Gordon  
24 was entitled to?

25 A Yeah, I would agree.

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1  
2 Q So why does the pendency of this  
3 litigation explain Angelo Gordon's failure to  
4 pay that fee back to the Trustee?

5 MR. PEES: Objection.

6 A It is a determination that we've  
7 made internally and in consultation with  
8 counsel.

9 (Whereupon, Jacobs 37, Document,  
10 previously marked was shown to the  
11 witness.)

12 Q The court reporter handed you  
13 what has been previously marked as Jacobs 37,  
14 January 19th -- January 2011 payment --  
15 valuation report for the Cedar Woods II deal,  
16 does that appear to be what this is?

17 A Yes.

18 Q If you turn to page 61, do you  
19 see the two WBCMT bonds are listed at their  
20 now correct ratings?

21 A I do see that.

22 Q CCA3 and CAA respectively.  
23 Where a security is downgraded  
24 and that downgrade is reflected for the first  
25 time in a particular payment report, is there

1 another section where it is discussed as  
2 well, the downgrade?

3 A Typically the down grades that  
4 take place within a particular month are  
5 detailed in the rating change history  
6 section, I believe it is on page 52.

7 Q Okay.

8 The two WBCMT 2005-C18 bonds are  
9 not reflected on page 52 are they?

10 A That's correct.

11 Q Do you know why -- do you have  
12 any information about why they were omitted  
13 from the section, the rating change history  
14 section of this report?

15 A I don't.

16 (Whereupon, Solomon 15, E-mail,  
17 Bates stamped AGCWII 0112928 through  
18 112930, was marked by the reporter for  
19 identification.)

20 Q The court reporter handed you  
21 what has been marked as Exhibit 15.

22 Which is an e-mail -- it is a  
23 document -- an e-mail bearing control number  
24 AGCWII 0112928 through 112930, with some  
25

1 attached spreadsheets that we attempted to  
2 printout.

3 The e-mail is an e-mail from  
4 Mr. Idikkula, he is at U.S. Bank; is that  
5 correct?

6 A Correct.

7 Q To you, attaching these  
8 spreadsheets, also copied some other people.

9 He is writing in response to  
10 your e-mail in the middle of the first page  
11 dated January 5, 2011?

12 A Um-hum.

13 Q And you say in the second  
14 paragraph, "Also would it be possible for you  
15 to send over a copy of the most recent  
16 detailed OC calc in Excel", and then in  
17 parentheses you say "the one with the  
18 haircuts, et cetera, as of the prior cut off  
19 is fine", do you see that?

20 A Yeah.

21 Q The spreadsheets he is  
22 attaching, are these the spreadsheets that  
23 U.S. Bank uses to calculate the coverage  
24 tests?  
25

1 A I believe so.

2 Q This is a spreadsheet -- if you  
3 wanted to recalculate the coverage test  
4 yourself counting for the downgrade in WBMCT  
5 bonds this is a spreadsheet that would aid  
6 you in that calculation?

7 A Yeah, that's fair.

8 Q Sitting here today do you have a  
9 recollection that that was why you were  
10 asking for these spreadsheets?

11 A No, I don't recall that being  
12 the reason.

13 Q Do you recall the reason why you  
14 were asking for these spreadsheets?

15 A I'm not sure. Looking at the  
16 earlier remittance report the coverage test  
17 on -- the Class D/E level was close, so that  
18 again would be the sort of thing where we  
19 would want to make sure that we were tying  
20 out with the Trustee of how the calculation  
21 was being done.

22 Q At that point, by January 5th,  
23 the December report had already been  
24 published, right?  
25

1 A Correct.

2 Q So why would you have been  
3 looking at the prior month's coverage test  
4 calculations on the fifth of the next month?

5 A Again, I'm not sure. It's not  
6 unusual for us to be looking at these  
7 calculations intra month.

8 (Whereupon, Solomon 16,  
9 Document, Bates stamped AGCWII 0120200,  
10 was marked by the reporter for  
11 identification.)

12 Q The court reporter handed you  
13 what has been marked Exhibit 16, which is the  
14 first document that bears control numbers  
15 AGCWII 0120200, and attaches a series of  
16 spreadsheets that we've attempted to printout  
17 in a legible fashion, I hope we succeeded.

18 The e-mail is from Mr. Finger to  
19 Tom Idikkula at U.S. Bank, and the message is  
20 -- it says "Subject: C Wood II trade log",  
21 and the text is "Today's C Wood II purchased  
22 600,000 LBUBS 2007-C7", do you see that?  
23

24 A I do.

25 Q The attachment, is this the



1  
2 certainly could be interpreted in the fashion  
3 that I was trying to articulate, but that it  
4 would also be a change in what is done --  
5 what had been done historically.

6 And without a real compelling  
7 reason to do it, their advice was, you know,  
8 do not change what has been done already.

9 If you want to do it, if you  
10 direct us to do it, I believe it was  
11 something they said they wouldn't refuse but  
12 their feeling was -- it was not advisable to  
13 make changes to the way this calculation was  
14 being done four years into the life of the  
15 deal.

16 Q Did you direct them to make this  
17 change that you are suggesting in this  
18 e-mail?

19 A No, I didn't. I directed them  
20 to continue to do the calculation as it had  
21 been done for the prior four years, over the  
22 life of the deal.

23 Q Why was that?

24 A I agreed with their  
25 interpretation of the document, and their

1 recommendations.

2 Q Do you have Aldama Exhibit 14 in  
3 front of you?

4 A Yes.

5 Q Turn to page 46, there is a  
6 definition of principal coverage amount.

7 Are these the definitions of  
8 ratings haircuts we discussed a couple of  
9 times today?

10 A Yes.

11 Q What is the change that you were  
12 suggesting in this e-mail, did it relate to  
13 this definition?

14 A Yes, they are.

15 Q Is it Angelo Gordon's position  
16 today that the OC test should be calculated  
17 the way the Trustee was calculating or that  
18 it should have been calculated in accordance  
19 with the method outlined in this e-mail that  
20 has been marked as Exhibit 17?

21 A I think the indenture, the  
22 document is unclear.

23 MR. PEES: For clarity of the  
24 record the e-mail is Exhibit 18.  
25

1  
2 Q Is it Angelo Gordon's position  
3 that the principal coverage amount should be  
4 calculated the way that is reflected in this  
5 e-mail, or the way that you have directed the  
6 Trustee to continue to perform it back in  
7 September of 2010?

8 A Again, I think it's unclear in  
9 the indenture that it could be interpreted  
10 either way, but after discussing the issue  
11 with the Trustee we are fine with the way  
12 it's being calculated today, which is the way  
13 it has always been calculated.

14 Q Turn to page 47 of Aldama 14,  
15 the indenture.

16 Does the discussion here relate  
17 to part three of that -- the proviso to the  
18 definition of principal coverage ratio --  
19 principal coverage amount?

20 A I believe it is, yes.

21 Q Can you explain what the change  
22 is that you wanted -- that you were at least  
23 proposing in this e-mail?

24 A Okay. This is a second order  
25 haircut, meaning that it is a haircut that is

1 made after you already have the earlier  
2 haircuts calculated, and it is one that we  
3 talked about earlier, where it says what  
4 percentage of the pool has a particular  
5 rating low enough that it is over 40 percent  
6 of the CDS principal balance.

7 Q Is that after a reduction for  
8 defaulted securities and written down  
9 securities and deferred interest PIK bonds?

10 A Yeah, I believe so.

11 Q And that is the way you think it  
12 should be done?

13 A I think that is the way it  
14 should be done. I think that is the way it  
15 is being done.

16 Q And the 40 percent is 40 percent  
17 of what?

18 A Well, that's what we are  
19 questioning here. If you look in my e-mail,  
20 that second to last paragraph, what I'm  
21 saying is that I think -- equal cell C8 and  
22 the haircut should not apply to the  
23 denominator.

24 It's not the summary principal  
25



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1  
2 coverage tab, it's the next one, the big  
3 file.

4 If you look up there there is D8  
5 and C8. So 40 percent of what -- I'm saying  
6 it's 40 percent of the CDS principal balance,  
7 which is a defined term; which I believe in  
8 this case would have been \$829 million, but  
9 the calculations being done based on a  
10 haircutted CDS principal balance, a lower  
11 balance, it's being done based on the \$755  
12 million.

13 Q Right, and looking back at the  
14 indenture it's being done based on the \$829  
15 after giving effect to one and two above, the  
16 first two ratings haircuts?

17 A Correct.

18 Q And your proposal was to read  
19 that language as not being there?

20 A My proposal was that the CDS  
21 principal balance --

22 Q Just use the CDS principal  
23 balance without giving effect to the  
24 parenthetical?

25 A Yeah, I believe that's the way

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1 that I was interpreting it.

2 To say it another way, that  
3 parenthetical relates to the numerator, and  
4 that the denominator is a defined term is a  
5 CDS principal balance.

6 Q So how would the parenthetical  
7 come into play?

8 A You use the haircut for the  
9 percentage of the pool that's rated below  
10 investment grade; so BA1, BB+, that amount  
11 has been haircut already, that is what the  
12 parenthetical is referring to, it's not  
13 referring to the defined term of CDS  
14 principal balance.

15 THE VIDEOGRAPHER: The time is  
16 6:08 p.m. Going off the record.  
17 (A short break is taken.)

18 THE VIDEOGRAPHER: The time is  
19 6:23 p.m. Back on the record.

20 (Whereupon, Aldama 27,  
21 Collateral Management Agreement,  
22 previously marked was shown to the  
23 witness.)

24 Q I just handed you what has been  
25

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1  
2 previously marked as Aldama Exhibit 27, which  
3 is the collateral management agreement dated  
4 February 27, 2007, between Cedar Woods CRE  
5 CDO issuer and Angelo Gordon & Co. as  
6 collateral manager.

7 Is this the collateral  
8 management agreement under which Angelo  
9 Gordon operates with respect to the Cedar  
10 Woods II deal?

11 A Yes.

12 Q Is it your understanding that  
13 this is a contract between Angelo Gordon and  
14 the issuer?

15 A Yes, that is my understanding.

16 Q The services that are being  
17 provided under this agreement are the  
18 services that Angelo Gordon provides to the  
19 issuer?

20 A Correct.

21 Q Section two, which starts on  
22 page one, lists the services that the  
23 collateral manager, Angelo Gordon in this  
24 case, is to provide under the agreement?

25 A It does.

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1  
2 Q Section 2A governs the --  
3 determining the securities to be purchased or  
4 sold by the issuer?

5 A It does.

6 Q And would you agree that all  
7 purchases and sales of collateral on behalf  
8 of the issuer are to be done in accordance  
9 with the indenture?

10 A I believe that's correct.

11 Q Skipping over to page two,  
12 paragraph G1, would you agree that Angelo  
13 Gordon undertook an obligation to monitor the  
14 collateral debt securities on an ongoing  
15 basis?

16 MR. PEES: Objection.

17 A I would agree.

18 Q In Subsection 2F, Angelo Gordon  
19 undertook to determine whether any collateral  
20 debt security is a defaulted security?

21 MR. PEES: Objection.

22 A I would agree.

23 (Whereupon, Jacobs 26,  
24 Collateral Administration Agreement,  
25 previously marked was shown to the

1 witness.)

2 Q I just handed you what has been  
3 previously marked as Jacobs Exhibit 26, which  
4 is the collateral administration agreement  
5 dated February 27, 2007.

6 Would you agree with me that  
7 this is a contract between the issuer, Angelo  
8 Gordon as collateral manager and at least at  
9 the time Lasalle National Bank?

10 A I would.

11 Q Which was to serve as collateral  
12 administrator.

13 Based on what we discussed  
14 earlier the entity that is now the collateral  
15 administrator is U.S. Bank, correct?

16 A Correct.

17 Q Did you understand that Angelo  
18 Gordon undertook certain responsibilities  
19 under the collateral administrator agreement  
20 as well as under the collateral management  
21 agreement?

22 A I do.

23 Q States the issuer and collateral  
24 manager shall cooperate with the collateral  
25

1 administrator including calculations relating  
2 to the note reports, do you see that?

3 A I do.

4 Q In this paragraph Angelo Gordon  
5 undertook to cooperate with the collateral  
6 administrator in connection with the  
7 calculations that were made in the note  
8 reports?

9 A Yes.

10 Q And then in Paragraph D, on the  
11 next page, it states "The collateral manager  
12 shall review and to the best of its knowledge  
13 verify the contents of the aforesaid reports  
14 and statements", do you see that?

15 A I do.

16 Q Do you understand to refer to  
17 among other things the note valuation reports  
18 that we've looked at today?

19 A I do.

20 Q That section goes on to state  
21 "To the extent that any information in such  
22 reports or statements conflicts with data or  
23 calculations in the records of the collateral  
24 administrator -- the collateral manager, the  
25

1 collateral manager shall notify the  
2 collateral administrator of such discrepancy  
3 and use reasonable efforts to assist the  
4 collateral manager, the collateral  
5 administrator, in reconciling such  
6 discrepancy", do you see that?

7 A I do.

8 Q You understand that Angelo  
9 Gordon had undertaken that responsibility,  
10 correct?

11 A I do.

12 MR. MALLOY: That is all I have,  
13 subject to any further questions in  
14 response to any issues that are raised  
15 by my colleagues in the room.  
16

17 CONT'D EXAMINATION BY MR. VENKATAKRISHNAN:

18 Q Good evening, Mr. Solomon.  
19 I'm Mahesh Venkatakrishnan, and  
20 I'm an attorney for U.S. Bank. I'm going to  
21 ask you a couple of questions.

22 If I could direct you to the  
23 exhibit you were just handed marked as Aldama  
24  
25

1 27, do you recall you agreed with Mr. Malloy  
2 that section two of the document lists  
3 certain duties of the collateral manager; is  
4 that correct?

5 A That's correct.

6 Q And you agree that Section 2F of  
7 the collateral management agreement states  
8 that the collateral manager that is  
9 responsible for determining whether any  
10 collateral debt securities are defaulted  
11 securities?

12 MR. PEES: Objection.

13 A Well, I do see the language that  
14 says "The collateral manager will provide and  
15 is hereby authorized to provide the issuer  
16 with the following services in accordance  
17 with and subject to the application -- I'm  
18 sorry, the applicable requirements of the  
19 indenture in this agreement, and then  
20 Subsection F is "Determining whether any  
21 collateral debt security is a defaulted  
22 security, a credit risk security, a written  
23 down security, a withholding tax security or  
24 an equity security.  
25